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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/657,263

09/08/2003

David Franklin Scamard

3287

7590

03/04/2005

Dr. David F. Scamard, O.D.
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Tampa, FL 33647

EXAMINER

TIBBITS, PIA FLORENCE

ART UNIT

PAPER NUMBER

2838

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,263

Applicant(s)

SCAMARD, DAVID . FRANKLIN

Examiner

Pia F. Tibbits

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

1. An examination of this application reveals that applicant is somewhat unfamiliar with patent prosecuting procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. Although the Office cannot aid in selecting an attorney or agent, applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. In addition, this listing is available on-line at

<http://www.uspto.gov/web/offices/dcom/olia/oed/roster/region/index.html>.

Other materials and information that may be helpful to the independent inventor are available at

<http://www.uspto.gov/web/offices/com/iip/index.htm>

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the conventional names, as described in the specification, e.g. capacitor, battery, etc. for the elements shown in fig.1 with non-conventional symbols. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "multiple capacitors", the "charge circuit portion detects", the "electric device" must be shown or the feature(s) canceled from the claim(s). **No new matter should be entered.**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

5. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A (1) states, "the list may not be incorporated into the specification but must

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be submitted in a separate paper." Therefore, unless the examiner on a form PTO-892 has cited the references, they have not been considered.

6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed: a capacitor used as a power supply for a battery charging circuit.

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter: "short period of time", "optimal period of time", "optimal current", "various stages", "electric device", "additional electric current", "transfer additional electric current for the operation of the device". See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction is required.

8. Applicant is reminded to use consistent language throughout the disclosure in order to facilitate finding support for the recited limitations, as well as to provide proper antecedence for all claimed limitations. For example, the specification describes a "chargeable battery portion", while claim 1 recites a "battery portion".

Claim Objections

9. Claim 1 is objected to because of the following informalities:

in line 3, "the battery portion" lacks antecedence.

in line 7, "a chargeable battery portion" is not clear since "battery portion" has already been recited in line 3.

in line 7, "any chargeable/rechargeable battery" is not clear since only a rechargeable battery could be charged. Applicant to explain the meaning of "chargeable battery".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Small et al.**

[hereinafter Small][6326767].

For examination purposes, the application was considered to address as **intended limitations** a power supply including a capacitor(s) charging a rechargeable battery, such as a NiCad battery, via a regulator, and monitoring a condition of the battery to optimize charging.

Small discloses in figures 1-8 a power supply 501 [see fig.5A] including capacitors C₁-C₄ [see column 18, line 49] charging a rechargeable battery, such as a NiCad battery [see column 2, line 7; column 18, line 21] via regulator 512 [see column 19, line 23]. The battery charger 300 has a temperature sensor at a negative charging terminal for determining the charge condition of a rechargeable battery pack and controlling a charging current. The battery charger has a microcontroller to control the charging of the rechargeable battery pack using a fast charge current or a trickle charge current [see the abstract].

With regard to the patent using a power supply 501 including a regulated and unregulated output, cited in the Small reference, by eliminating one output the applicant neither extends the life of the batteries being charged, nor makes it easier to fully charge a battery, which is the object of his invention, as cited in the disclosure. Therefore it would be obvious to one skilled in the art at the time the invention was made that the elimination of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *Ex parte Wu*, 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989), *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965) and *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited in PTO-892 and not mentioned above disclose related apparatus: **Okamura et al.**

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[5604426] discloses an auxiliary power supply for a vehicle provided with an electric double layer capacitor having a large capacitance. The auxiliary power supply is so adapted that an output power of regenerative braking at the time of braking of the vehicle is stored in the capacitor through a rectifier, and a secondary battery is charged with energy stored in the capacitor as required. **JP-2002238108**, **JP-2000253508**, **JP-2000253503**, **JP-2003206838**, and **JP-10309002** all disclose electrical double-layer capacitors charging a rechargeable battery.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is (571) 272-2086. If unavailable, contact the Supervisory Patent Examiner Mike Sherry whose telephone number is (571) 272-2084. The Technology Center Fax number is (703) 872-9306.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

15. Helpful Information for Pro Se Applicants

The following includes general information for the applicant's benefit.

Applicant's Response

Unless the Office explicitly requests the return of a paper, all papers mailed to the Applicant are intended to be kept by the applicant for his or her own records.

ALL applicants must sign the response.

All responses must be submitted typewritten, at least 1½ spaced (preferably double-spaced) and on a single side of the paper.

Papers filed in an application should not be filed in duplicate (or triplicate) unless specifically requested.

A single copy is sufficient.

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Amendments to the Specification

Any amendments to the specification must be presented as a list of additions and deletions, referring to the passages in question by page and line numbers. No new matter may be entered. It is not necessary to submit a new specification unless the Examiner has required one. As an example, an amendment to the specification should appear as follows:

On page 16, line 12, change "effect" to --affect--.

On page 23, line 4, insert --fastener-- after "loop".

(Note: the inserted language is placed between double dashes.)

Amendments to the Claims

Short amendments to the claims should be presented in the above format using claim number and the line number within the claim. However, if an amendment to a claim requires the addition of more than five words, the claim must be completely rewritten with the additions to the claim being underlined. Any deletions from the claims should be enclosed in brackets. No matter may be inserted into the claims that was not in the originally filed disclosure.

As an example, if a claim for a chair were originally written as follows:

1. A chair comprising a horizontal seat, a vertical back, and a plurality of vertical support members.

An amended version of this claim might then be written as follows:

1. (Amended) A chair comprising a horizontal seat, a vertical back, and [a plurality of] four vertical [support members] legs attached to said seat.

In this example, the words "a plurality of" and "support members" have been deleted from the claim. The words --four-- and --legs attached to said seat-- have been inserted. If the specification or drawings originally described the inclusion of four legs on the chair, the new limitation of "four legs" in the claim would not constitute new matter.

Arguments

If an Office action contains a rejection or objection to the claims, the applicant MUST respond with changes or arguments. Arguments should be in a section under the heading "Remarks" pointing out

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disagreements with the examiner's contentions. The applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or patentably distinguish from them. The applicant must respond to every ground of rejection and objection set forth in the Office action. For more details of the amendment process, the applicant can refer to 37 Code of Federal Regulations Sections 1.118 - 1.121.

New Matter

As previously mentioned, no amendment to the specification, claims, or drawings may introduce new matter. "New matter" constitutes any material, which meets the following criteria:

1. It is added to the disclosure (either the specification, the claims, or the drawings) after the filing date of the application, and
2. It contains new information, which is neither included nor implied in the original version of the disclosure.

This includes the addition of physical properties, new uses, etc.

Period for Response

The three month shortened statutory period specified in the cover letter (form PTO-326) is the period of time in which the applicant has to respond to every rejection and objection within this Office action. Applicant's response must be received within three months of the date listed on the cover letter, or the application will be held abandoned. This period, however, may be extended up to a maximum of six months, with the payment of the appropriate fee. The response must also contain a statement requesting "an extension of the period for response under 37 CFR 1.136(a)".

PFT

February 28, 2005

Pia Tibbits

Primary Patent Examiner

